**IN THE HIGH COURT OF KERALA AT ERNAKULAM**

**PRESENT :**

**THE HONOURABLE MR. JUSTICE A.K.BASHEER**

**MONDAY, THE 12TH MARCH 2007 / 21ST PHALGUNA 1928**

**WP(C).No. 37176 of 2003(A)**
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**PETITIONER:**
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**O. INDIRA DEVI AMMA, LECTURER**
**(SELECTION GRADE, RETIRED), PARUTHIKAD,**
**SREEKANTESWARAM, THIRUVANANTHAPURAM.**

**BY ADV. SRI.N.SUGATHAN**

**RESPONDENTS:**
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1. **THE STATE OF KERALA, REPRESENTED BY**
   **THE PRINCIPAL SECRETARY TO GOVERNMENT,**
   **HIGHER EDUCATION DEPARTMENT, SECRETARIAT,**
   **THIRUVANANTHAPURAM.**

2. **THE DIRECTOR OF COLLEGIATE EDUCATION,**
   **THIRUVANANTHAPURAM.**

3. **THE PRINCIPAL, ST. XAVIER'S COLLEGE,**
   **THUMBA, THIRUVANANTHAPURAM.**

**BY GOVERNMENT PLEADER SMT.LAKSHMI RANI**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 12 /03 / 2007 , THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:**

**W.P.(C) NO.37176/2003**

## APPENDIX

**PETITIONER'S EXHIBITS**

**EXT.P1:- COPY OF THE LETTER NO.F-1-6/ 90(PS CELL) DT.29.1.90 OF THE U.G.C.**

**EXT.P2:- COPY OF THE REPRESENTATION DT.11.8.97 OF THE PETITIONER TO THE HONOURABLE MINISTER FOR EDUCATION.**

**EXT.P3:- COPY OF THE SERVICE CERTIFICATE DT.29.1.90 ISSUED BY PRINCIPAL SREE DEVI KUMARI WOMEN'S COLLEGE.**

**EXT.P4:- COPY OF THE LETTER NO.27023/D1/97/H.EDN. DT.13.2.98 OF THE 1ST RESPONDENT.**

**EXT.P5:- COPY OF THE G.O.(MS) NO.125/99/H.EDN. DT. 7.10.99.**

**EXT.P6:- COPY OF THE PROMOTION ORD DT. 1.2.01 OF THE MANAGER, ST.XAVIERS'S COLLEGE, THUMBA.**

**EXT.P7:- COPY OF THE ORDER NO.AC.FIII 2/11104/01 DT.15.3.02 OF THE UTY. OF KERALA.**

**EXT.P8:- COPY OF THE ORDER NO.AC.FIII 2/11194/01 DT.15.3.02 OF THE UTY. OF KERALA.**

**EXT.P9:- COPY OF THE REPRESENTATION DT.26.6.02 OF THE PETITIONER TO THE 1ST RESPONDENT.**

**EXT.P10:- COPY OF THE REPRESENTATION DT.31.12.02 OF THE PETITIONER TO THE HONOURABLE MINISTER FOR EDUCATION.**

**EXT.P11:- COPY OF THE LETTER DT.12.5.03 OF THE 2ND RESPONDENT.**

**EXT.P12:- COPY OF THE LETTER DT.15.9.03 OF THE 1ST RESPONDENT.**

**EXT.P13:- COPY OF THE G.O.(P) NO.2357/99/FIN. DT.25.11.99.**

**EXT.P14:- COPY OF THE GO(P) NO.228/01/FION. DT.2.2.01.**

**/TRUE COPY/**

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**A.K. Basheer, J.**

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**W.P(C) No. 37176 of 2003-A**

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**Dated this the 12th day of March, 2007.**

**J U D G M E N T**

Are the respondents justified in excluding the period of service rendered by the petitioner as Assistant Professor in a College in Tamil Nadu while reckoning her total period qualifying service for the purpose of pension?

2. Shorn of unnecessary details, the relevant facts may be briefly noticed.

3. Petitioner had admittedly worked as Assistant Professor in Sree Devi Kumari Womens' College, Kuzhithurai in Tamil Nadu from July 10, 1967 to January 12, 1979 before joining St.Xavier's College, Thumba at Thiruvananthapuram which is affiliated to the University of Kerala. Petitioner had retired from service on superannuation on March 31, 1999 while she was working as Selection Grade Lecturer. It is beyond controversy that the period of her service in Tamil Nadu was reckoned for the purpose of giving notional promotion to her as Lecturer (Selection Grade). Ext.P6 is a true copy of the order of promotion which was approved by the University as revealed from Exts.P7 and P8 orders. It is seen from Ext.P8 that the promotion as Selection Grade Lecturer was with effect from January 1, 1986. It is also the admitted position that petitioner's monthly pension of Rs.5400/- was fixed on the basis of her last drawn pay of Rs.16,200/-.

4. As mentioned earlier, the petitioner had drawn salary at the time of her retirement on the basis of the promotion given to her as Selection Grade Lecturer reckoning her period of service in Tamil

Nadu also. The grievance of the petitioner is that the total period of service rendered by her in Tamil Nadu has not been reckoned while calculating the qualifying service for the purpose of pension. On the contrary, the period of service of 25 years rendered by the petitioner in Kerala alone has been reckoned. She had a total period of 32 years' service to her credit; but 20 years" service alone had been taken into account for fixing the pension.

5. In the counter affidavit it is contended that the action of the respondents is justifiable and that the service rendered by the petitioner in Tamil Nadu cannot be reckoned for pension. Learned Government Pleader submits that the above decision was taken by the Government in terms of the guidelines issued in Ext.P5, in which it was made clear that while counting previous service for the purpose of Selection Grade to the teachers in the colleges in the State, the service rendered by them outside the State would count only for notional fixation benefits and they would not be eligible for any arrears.

6. It is pertinent to note that petitioner had not claimed any arrears She was given the benefit of notional promotion reckoning the period of service rendered by her in Tamil Nadu. Her pension was also fixed on the basis of the notional promotion given to her and also on the basis of the salary attached to the post of Selection Grade Lecturer. In Ext.P11 communication addressed by the Director of Collegiate Education to respondent No.1, the Government had been requested by the Director to issue necessary direction to settle the case of the petitioner. The Director had pointed out that in view of G.O.Ms.125/99/H.Edn. dat4ed 7/10/1999 petitioner's service had been

taken for placement based on the judgment in O.P.NO.6991/1998. The Director further pointed out that as per G.O(P).228/2001/Fin dated 2/2/2001 the service put in by employees prior to entry in Government service can be reckoned for pension. But I am afraid the above view taken by the Director may not be of any help to the petitioner.

7. However a perusal of Ext.P1 communication issued by the Secretary of the University Grants Commission to the Vice Chancellor of the University of Kerala undoubtedly shows that the petitioner is justified in making her claim for reckoning the period of service rendered by her in Tamil Nadu as qualifying service for pension. It is pointed out in Ext.P1 that the Commission in its meeting held on December 13, 1989 agreed that the experience of a person before appointment as a Lecturer in the University or college in equivalent grade in other Universities/Colleges and the National Laboratories or R & D Organizations (CSIR/ICAR, DRDO, UGD etc.) and UGC Research Scientists be counted as qualifying service for placement in the senior scale/selection grade. Ext.P5 was issued by respondent No.1 in the light of Ext.P1. In that view of the matter, I do not find any justification in refusing to reckon the period of service rendered by the petitioner outside Kerala for the purpose of fixation of pension, particularly since the service rendered by her outside Kerala had been reckoned for granting her promotion as Selection Grade Lecturer. She was also granted all the consequential benefits pursuant thereto, except arrears. As mentioned earlier petitioner's monthly pension was also fixed on the basis of her last drawn pay consequent on the fixation of

her scale of pay in terms of the notional promotion.

8. In the above facts and circumstances of the case Ext.P12 order is liable to be quashed. I do so. Respondents 1 and 2 are directed to sanction revised pensionary benefits to the petitioner reckoning the period of service rendered by her outside Kerala as qualifying service for the purpose of pension. Appropriate orders in this regard shall be issued by respondents 1 and 2 as expeditiously as possible, at any rate within 3 months from the date of receipt of a copy of this judgment.

**A.K. Basheer**
**Judge.**

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